UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI SOUTHWESTERN DIVISION

WAYLON VAUGHAN)
Plaintiff,))
vs.) Case No. 13-5097-CV-SW-DGK
AEGIS COMMUNICATIONS GROUP, LLC)
Defendant.))
)

MOTION TO DISMISS COUNT V OF PLAINTIFF'S PETITION

COMES NOW Defendant Aegis Communications Group, LLC ("ACG"), and moves the Court to dismiss Count V of Plaintiff Waylon Vaughan's ("Plaintiff") Petition pursuant to Fed.R.Civ.P. 12(b)(6). In support of this motion, ACG states:

- 1. Plaintiff bases Count V of his petition on 18 U.S.C. §§1589 and 1595.
- 2. Section 1589, entitled "Forced Labor," makes it a crime to knowingly provide or obtain labor or services by means or threats of force, physical restraint, serious harm, abuse of legal process, or by causing a person to believe that if they did not perform labor serious harm or physical restraint would result. *See* 18 U.S.C. § 1589(a)(1)-(4).
 - 3. The statute defines "serious harm" as,

 any harm . . . that is sufficiently serious . . . to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor or services in order to avoid

18 U.S.C. § 1589(c).

incurring that harm.

4. Section 1595(a) provides a civil remedy for violation of section 1589. 18 U.S.C. § 1595(a).

- 5. Plaintiff's theory is that ACG compelled him to work in India by threatening to terminate him from his job in Joplin and refusing to pay for his return trip unless he continued working in India. Petition at ¶¶ 105-16.
- 6. Count V of Plaintiff's Petition fails to state a claim for forced labor because having to continue working to remain employed, and having to pay airfare to return home prematurely, does not constitute "serious harm" under 18 U.S.C. § 1589. Accordingly, the Court should dismiss Count V of Plaintiff's Petition with prejudice.
- 7. ACG files herewith and incorporates herein its Suggestions in Support of this motion.

WHEREFORE, Defendant Aegis Communications Group, LLC, moves the Court to dismiss Count V of Plaintiff's Petition with prejudice, and for such other and further relief as the Court deems just and proper.

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CERTIFICATE OF SERVICE

I hereby certify that on July 17, 2013, the foregoing was filed electronically with the Clerk of the Court and will be served by operation of the Court's electronic filing system upon the following:

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